

Appl. No. 10/074,602  
Amdt. dated December 21, 2004  
Reply to Office Action of October 31, 2003

### **REMARKS/ARGUMENTS**

This amendment is filed in response to the Office Action mailed October 31, 2003. At that time, claims 1-21 and 23-27 were pending in the application. In the Office Action, the Examiner rejected claims 1-9, 11, and 13-21 as being unpatentable over U.S. Patent No. 6,164,383 issued to Thomas (hereinafter "Thomas") in view of by U.S. Patent No. 5,992,528 issued to Parkinson *et al.* (hereinafter "Parkinson") and in further view of U.S. Patent No. 3,972,373 issued to Nichols *et al.* (hereinafter "Nichols"). Claim 10 was rejected under §103(a) as being unpatentable over Thomas in view of Parkinson and Nichols, and in further view of U.S. Patent No 5,207,276 issued to Scofield (hereinafter "Scofield"). Claim 12 was rejected under §103(a) as being unpatentable over Thomas in view of Parkinson and Nichols and in further view of U.S. Patent No 5,660,236 issued to Sears *et al.* (hereinafter "Sears"). Claims 23-24 and 26-27 were rejected under §103(a) as being unpatentable over Thomas in view of Parkinson and Nichols, and in further view of Scofield. Finally, claim 25 was rejected under §103(a) as being unpatentable over Thomas in view of Parkinson, Nichols, Scofield, and in further view of Sears.

By this amendment, claims 1, 2, 13, and 14 have been amended. In view of these changes and the following remarks, claims 1-21 and 23-27 are presented for reconsideration by the Examiner.

### **REJECTION OF INDEPENDENT CLAIMS 1 AND 13 UNDER 35 U.S.C. §103(a)**

As noted above in greater detail, the Examiner rejected independent claims 1 and 13 as unpatentable under §103(a) in view of Thomas, Parkinson, and Nichols. *See* Office Action ¶ 3. The Applicants respectfully traverse this rejection.

It is well settled that in order to establish a *prima facie* case of obviousness, all of the limitations found in the Applicants' claims "must be taught or suggested by the prior art." MPEP §2143.03. By this paper, claims 1 and 13 have been amended to include the limitation

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that the fire extinguisher include a housing that stores gas generant “proximate to a bottom end of the housing.” This limitation is fully supported by the originally filed specification. *See e.g.*, Specification page 11, lines 1-8; Figure 2.

The Applicants submit that this limitation is not taught or suggested by any of the prior art references cited by the Examiner. Neither Thomas nor Nichols teach or suggest a system having a fire extinguisher that stores gas generant. Similarly, to the extent that Parkinson’s pressure bottle 112 constitutes a housing that stores gas generant and fire suppressant, Parkinson does not teach that the gas generant is proximate to the bottom end of the pressure bottle 112. On the contrary, Parkinson’s system is designed such that the combustible material 131 (the element that the Examiner asserts as the claimed “gas generant”) is positioned proximate to the top of the pressure bottle 112. *See* Parkinson Figure 2; *see also* Parkinson Col. 4, lines 20-30.

Therefore, because neither Thomas, Nichols, nor Parkinson disclose a system in which the fire extinguisher has a housing that stores gas generant “proximate to a bottom end of the housing,” this combination of references does not teach or suggest all of the limitations found in independent claims 1 and 13. As a result, this combination of references does not render these claims *prima facie* obvious under §103(a). Withdrawal of this rejection is respectfully requested.

#### **REJECTION OF DEPENDENT CLAIMS 2-12 AND 14-27**

As described in greater detail above, the Examiner rejected dependent claims 2-12 and 14-21, and 23-27 under 35 U.S.C. §103(a) as being unpatentable in view of the combined teachings of Thomas, Parkinson, Nichols, and (when necessary) Scofield and/or Sears. *See* Office Action ¶¶ 4-7. The Applicants respectfully traverse this rejection.

It is well settled that “[i]f an independent claim is nonobvious under 35 U.S.C. [§]103, then any claim depending therefrom is nonobvious.” MPEP §2143.03; *see also Hartness International, Inc. v. Simplimatic Engineering Co.*, 2 USPQ2d 1826, 1831 (Fed. Cir. 1987). As described above, independent claims 1 and 13 are nonobvious in light of the cited references.

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Therefore, claims 2-12, 14-21, and 23-27, which depend from independent claims 1 and 13, are similarly nonobvious. Withdrawal of these rejections is respectfully requested.

**CONCLUSION**

In view of the foregoing, the Applicants submit that claims 1-21 and 23-27 are in a condition for immediate allowance. If there are any remaining issues preventing allowance of the pending claims that may be clarified by telephone, the Examiner is requested to call the undersigned.

Respectfully submitted,



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